

1 ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

2 DEPARTMENT OF PUBLIC PROTECTION

3 OFFICE OF INSURANCE

4 DIVISION OF HEALTH INSURANCE POLICY AND MANAGED CARE

5 (Emergency Amendment)

6 806 KAR 17:180E. Standard health benefit plan [~~and comparison format~~].

7 RELATES TO: KRS 304.17A-080, 304.17A-200-304.17A-250, 304.17A-430

8 STATUTORY AUTHORITY: KRS 304.2-110(1), 2004 Ky. Acts ch. 59, sec. 4

9 NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 2003-064, filed
10 December 23, 2003, created the Environmental and Public Protection Cabinet. Executive Order
11 2004-031, filed January 6, 2004, abolished the Department of Insurance and transferred all its
12 “duties, functions, responsibilities, records, equipment, staff and support budgets” to the Office
13 of Insurance. KRS 304.2-110(1) authorizes the commissioner to promulgate administrative
14 regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky
15 Insurance Code as defined in KRS 304.1-010. KRS 304.17A-250(1) requires the commissioner
16 to define by administrative regulation one (1) standard health benefit plan that may provide
17 health insurance coverage in the individual and small group markets. This administrative
18 regulation establishes one (1) standard health plan that may provide health insurance coverage in
19 the individual and small group markets and establishes procedures for modifications to the

1 standard health benefit plan.

2 Section 1. Definitions.

3 (1) "Health Insurance Advisory Council" means a body established in accordance
4 with KRS 304.17A-080. [~~"FFS" means a fee for service product type.~~]

5 (2) [~~"HMO" means a health maintenance organization product type.~~]

6 (3) ~~—"POS" means a point of service product type.~~

7 (4) ~~—"PPO" means a preferred provider organization product type.~~

8 (5) "Standard health benefit plan" means the format, cost-sharing levels, definitions,
9 benefits, exclusions, and supplemental benefit riders established by the Department of Insurance
10 and the Health Insurance Advisory Council in accordance with 2004 Ky. Acts ch. 59, sec. 4
11 [KRS 304.17A-250] and any other health insurance benefit mandated by the General Assembly.

12 Section 2. [~~Standard Benefits Comparison Format.~~]

13 (1) ~~If initial solicitation of health insurance coverage in the individual or~~
14 ~~nonemployer small group markets occurs, the person soliciting the product shall complete and~~
15 ~~deliver a benefit comparison form applicable to the product being solicited as follows:~~

16 (a) ~~A FFS health benefit plan shall be compared to the FFS standard benefit~~
17 ~~plan by using the Fee for Service Health Benefit Plan Comparison Form;~~

18 (b) ~~A HMO health benefit plan shall be compared to the HMO standard~~
19 ~~benefit plan by using the HMO Health Benefit Plan Comparison Form;~~

20 (c) ~~A POS health benefit plan shall be compared to the POS standard benefit~~
21 ~~plan by using the POS Health Benefit Plan Comparison Form; and~~

22 (d) ~~A PPO health benefit plan shall be compared to the PPO standard benefit~~
23 ~~plan by using the PPO Health Benefit Plan Comparison Form.~~

1 ~~(2) — An insurer shall produce each form required by subsection (1) of this section and~~
2 ~~supply each form to each person who solicits health insurance coverage for the insurer in the~~
3 ~~individual and nonemployer small group markets.~~

4 ~~(3) — Instead of using a form required by subsection (1) of this section, an insurer may~~
5 ~~use a form that is substantially similar to the corresponding comparison form listed in subsection~~
6 ~~(1)(a), (b), (c), or (d) of this section. An insurer may modify a benefit comparison form required~~
7 ~~by subsection (1) of this section in a manner that shall:~~

8 ~~(a) — Provide additional comparative information;~~

9 ~~(b) — Compare multiple health benefit plans; or~~

10 ~~(c) — Disclose that a sample premium comparison is shown on the benefit~~
11 ~~comparison form and inform the prospective applicant that a specific premium shall be provided~~
12 ~~upon receipt of the information necessary to generate an accurate comparison.~~

13 ~~(4) — For each product type listed in subsection (1) of this section:~~

14 ~~(a) — The person soliciting health insurance coverage shall compare the~~
15 ~~exclusions contained in "The Kentucky Standard Health Benefit Plan" to the exclusions in the~~
16 ~~health benefit plan being solicited by using the "Kentucky Standard Health Benefit Plan~~
17 ~~Comparison Form: Exclusions". Instead of using this exclusion comparison form, the insurer~~
18 ~~may use a form that is substantially similar to the "Kentucky Standard Health Benefit Plan~~
19 ~~Comparison Form: Exclusions."~~

20 ~~(b) — With respect to the exclusions comparison form required pursuant to~~
21 ~~subsection (4)(a) of this section, the person soliciting health insurance coverage shall:~~

22 ~~1. — Witness the signature of the prospective applicant on the~~
23 ~~exclusions comparison form;~~

1 2. ~~Sign the exclusions comparison form;~~
2 3. ~~Date the exclusions comparison form as of the date of solicitation;~~
3 and
4 4. ~~Attach the exclusions comparison form to the applicable product~~
5 ~~comparison form completed pursuant to subsection (1) of this section.~~

6 (e) ~~The person soliciting health insurance coverage shall deliver a copy of~~
7 ~~each completed benefit comparison form, together with a copy of the completed and signed~~
8 ~~exclusions comparison form, to the prospective applicant and to the insurer whose product is~~
9 ~~being solicited.~~

10 (d) ~~Paragraph (b) of this subsection shall not apply to a direct response~~
11 ~~solicitation. The exclusions comparison form for a direct response solicitation shall be presented~~
12 ~~to the prospective applicant in accordance with KRS 304.17A-250(7)(a)3.~~

13 (5) ~~A benefit comparison form shall not be required if an insurer is marketing only~~
14 ~~the standard health benefit plan.~~

15 Section 3.] Modification Process.

16 (1) The standard health benefit plan [~~and each comparison form~~] shall remain in
17 effect until the plan or any form is modified in accordance with the procedures established by
18 this section.

19 (2) The standard health benefit plan [~~and each comparison form~~] may be modified
20 each year and each modification shall apply to each policy or certificate issued or renewed on or
21 after July 15 of each year.

22 (3) Any interested person wishing to make a recommendation for modification of the
23 standard plan shall:

1 (a) Submit their recommendation, in writing, to the Kentucky Department of
2 Insurance, Division of Health Insurance Policy and Managed Care, by May 1 [~~August 31~~] of the
3 year preceding the year in which each modification is recommended for implementation;

4 (b) Explain the need for each recommended modification; and

5 (c) Provide a statement regarding the cost effect of each recommended
6 modification.

7 (4) Within a reasonable time after May 1 [~~August 31~~] of each year:

8 (a) The department shall present each recommendation for modification
9 received pursuant to subsection (3) of this section to the Health Insurance Advisory Council for
10 consideration;

11 (b) The Health Insurance Advisory Council shall review and discuss each
12 recommendation for modification of the standard health benefit plan in accordance with KRS
13 304.17A-080(3);

14 (c) The Health Insurance Advisory Council shall make a final
15 recommendation for modification of the standard health benefit plan based on the
16 recommendations presented by the department pursuant to paragraph (a) of this subsection; and

17 (d) After considering the final recommendation for modification from the
18 Health Insurance Advisory Council, the department shall either accept or decline, in writing, to
19 modify the standard health benefit plan.

20 (5) Each insurer issuing, delivering, or renewing a health benefit plan shall:

21 (a) Implement each modification to the standard health benefit plan [~~and each~~
22 ~~benefit comparison form~~] prescribed by the department; and

(b) Amend each policy form and rate filing to include every modification to the standard health benefit plan ~~[and each benefit comparison form]~~.

Section ~~3.~~4. ~~Incorporation~~~~[Material Incorporated]~~ by Reference.

(1) ~~[The following material is incorporated by reference:~~

(a) ~~—"Fee for Service Health Benefit Plan Comparison Form (2003 Edition)";~~

(b) ~~—"HMO Health Benefit Plan Comparison Form (2003 Edition)";~~

(c) ~~—"POS Health Benefit Plan Comparison Form (2003 Edition)";~~

(d) ~~—"PPO Health Benefit Plan Comparison Form (2003 Edition)";~~

(e) ~~—"Kentucky Standard Health Benefit Plan Comparison Form: Exclusions (2002 Edition)"; and~~

(f) "The Kentucky Standard Health Benefit Plan~~[-]~~, HIPMC-SP1 (07/04)" is incorporated by reference ~~[(07/03)]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Office~~[Department]~~ of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the department's Internet web site at <http://doi.ppr.ky.gov/kentucky/>. ~~[www.doi.state.ky.us]~~.

APPROVED:

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation 806 KAR 17:180E, Standard health benefit plan.

Contact Person: Melea Kelch

(1) Provide a brief summary of:

What this administrative regulation does:

- (a) This emergency administrative regulation defines the standard health benefit plan and establishes procedures for modifying the standard health benefit plan.
- (b) The necessity of this administrative regulation: This emergency administrative regulation is necessary to comply with 2004 Ky. Acts ch. 59, sec. 4(1) which states that the commissioner shall define one standard health benefit plan and to clarify the process for alterations, amendments, and replacements to the standard health benefit plan to comply with 2004 Ky. Acts ch. 59, sec. 4(1)
- (c) How does this administrative regulation conform to the content of the authorizing statutes: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. 2004 Ky. Acts ch. 59, sec. 4(1) states that the commissioner shall define one standard health benefit plan.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation aids in the effectuation of the statutes by defining the standard health benefit plan pursuant to 2004 Ky. Acts ch. 59, sec. 4 and by establishing procedures for recommending any annual modification to the standard health benefit plan

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation? The emergency amendment deletes comparison form requirements and other provision of the administrative regulation that are no longer needed due to statutory modifications during the 2004 legislative session. This amendment also clarifies the standard health benefit plan with respect to benefits available under the plan and clarifies the procedures for any annual modification to the plan.
- (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement changes brought about by the 2004 legislative session and to modify the standard health benefit plan based on recommendation by the Health Insurance Advisory Council
- (c) How the amendment conforms to the content of the authorizing statutes: This amendment removes provisions of the administrative regulation that are no longer needed due to changes made during the 2004 legislative session and complies with the requirement to define one standard health benefit plan mandated by 2004 Ky. Acts ch. 59, sec. 4(1)
- (d) How the amendment will assist in the effective administration of the statutes: This amendment incorporates changes brought about by the 2004 legislative session and defines one standard health benefit plan.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This emergency administrative regulation will affect approximately 45 Kentucky health insurers offering health benefit plans in the individual and small group market, which impacts approximately 90,000 persons covered under a standard health benefit plan. This regulation will also affect approximately 29,000 agents authorized to solicit health insurance business in Kentucky. .

- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Insurers will no longer be required to offer the standard health benefit plan in the individual and small group market. This administrative burden is no longer a requirement. Agents will no longer be required to make comparisons to the standard plan further reducing their disclosure responsibilities. Modification to the standard plan will clarify covered benefits.
- (5) Provide an estimate of how much it will cost to implement this regulation:
- (a) Initially: No additional cost.
 - (b) On a continuing basis. There should be no cost on a continuing basis.
- (6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? The budget of the Kentucky Office of Insurance.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees or funding is expected.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The emergency amendment to this administrative regulation does not establish any fees.
- (9) TIERING: Is tiering applied? No, the requirement will apply to all Kentucky Health Insurers offering the Standard health benefit plan.

SUMMARY OF AMENDMENTS TO INCORPORATED MATERIAL

806 KAR 17:180E

Standard health benefit plan

(1) 2004 Ky. Acts ch. 59, sec 4 removes comparison form requirements, therefore the amendment to 806 KAR 17:180 removes all pages of the following documents from the material previously incorporated by reference:

- (a) "Fee-for-Service Health Benefit Plan Comparison Form (2003 Edition)";
- (b) "HMO Health Benefit Plan Comparison Form (2003 Edition)";
- (c) "POS Health Benefit Plan Comparison Form (2003 Edition)";
- (d) "PPO Health Benefit Plan Comparison Form (2003 Edition)";
- (e) "Kentucky Standard Health Benefit Plan Comparison Form: Exclusions (2002 Edition)"

(2) The amendment to 806 KAR 17:180 incorporates the 2004 edition of the "The Kentucky Standard Health Benefit Plan, HIPMC-SP1 (07/04)" which contains changes from the 2003 edition summarized as follows:

- (a) All fifty-eight (58) pages are modified in the lower right corner to reflect the current edition.
- (b) Page one (1), unnumbered, is modified to reflect the current edition.
- (c) Pages three (3) and four (4) are altered and amended to clarify or change the limitations or cost sharing on physical therapy, occupational therapy, cardiac rehabilitation therapy and osteopathic/chiropractic manipulative treatment benefits under a fee for service and a preferred provider organization plan and to define acronyms.

(d) Pages thirty-seven (37) and thirty-eight (38) are altered and amended to clarify benefits for therapy services and osteopathic/chiropractic manipulative treatment and to define osteopathic/chiropractic manipulative treatment.

(3) The total number of pages that the Office of Insurance has incorporated by reference is fifty-eight (58).